



AN ACT REDEFINING THE MARKET PRICE THAT MUST BE USED WITH RESPECT TO AUTOMOBILE GLASS REPAIR AND WITH RESPECT TO AUTOMOBILE BODY REPAIR BUSINESSES; AMENDING SECTIONS 33-18-221, 33-18-222, 33-18-223, AND 33-18-224, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 33-18-221, MCA, is amended to read:

"33-18-221. Designation of specific repair shops prohibited -- lists allowed. (1) An insurance company, including its producers and adjusters, that issues or renews a policy of insurance in this state covering, in whole or part, a motor vehicle may not:

(a) require that a person insured under the policy use a particular company or location for providing automobile glass replacement, glass repair services, or glass products insured in whole or part by the policy; or

(b) engage in any act or practice of intimidation, coercion, or threat for or against an insured person to use a particular company or location to provide automobile glass replacement, glass repair services, or glass products insured, in whole or in part, under the terms of an insurance policy.

(2) (a) An insurance company may provide an insured with a list that includes the names of particular companies or locations providing automobile glass replacement, glass repair services, or glass products if some of the listed companies or locations are reasonably close and convenient to the insured. The insurance company may restrict the list to those companies or locations that meet reasonable standards of quality, service, and safety.

(b) The insured may use a nonlisted company or location at the insured's sole discretion, and subject to the provisions of subsections (2)(c) and (3), the insurance company will fully and promptly pay for the cost of automobile glass replacement, glass repair services, or glass products provided, less any deductible under the terms of the policy.

(c) If the insured does not use a list as provided in subsection (2)(a), the insurer may require the insured

to obtain not more than three competitive bids to establish the cost of automobile glass replacement, glass repair services, or glass products provided.

(3) This section does not require an insurer to pay more for automobile glass replacement, glass repair services, or glass products than the ~~lowest prevailing~~ market price as defined in 33-18-222.

(4) Notwithstanding the provisions of subsections (1) through (3), an insurance company may agree to pay the full cost of glass replacement or repair."

Section 2. Section 33-18-222, MCA, is amended to read:

"33-18-222. ~~Lowest prevailing market~~ Market price. (1) For purposes of 33-18-221, ~~and~~ 33-18-223, and 33-18-224, ~~"lowest prevailing "~~ market price" means the:

- (a) ~~price agreed upon between the insurer and the business; or lowest market price in a local area~~
- (b) prevailing competitive rate that is reasonable and necessary in the local area where the repairs are to be performed.

(2) The ~~lowest prevailing~~ market price may not be less than cost as provided in 30-14-209."

Section 3. Section 33-18-223, MCA, is amended to read:

"33-18-223. Prohibited activities -- glass broker defined. (1) It is unlawful for an insurance company, individually or with others, to directly or indirectly:

(a) establish an agreement with any person to act as a glass broker for the insurance company under which the glass broker sets a price that must be met by a glass repair shop as a condition for doing glass replacement or glass repair work for the insurance company;

(b) establish an agreement with a glass broker that requires a glass repair shop to bill through that glass broker as a condition of doing glass replacement or glass repair work; or

(c) establish a price that must be met by a glass repair shop as a condition for doing glass replacement or glass repair work that is below the ~~lowest prevailing~~ market price as provided in 33-18-222.

(2) As used in this section, "glass broker" means an automobile glass company that acts as a third-party agent for the insurer whenever the glass broker enters into agreements with other automobile glass dealers to perform glass replacement or glass repair work."

Section 4. Section 33-18-224, MCA, is amended to read:

"33-18-224. Designation of specific automobile body repair businesses prohibited. (1) (a) An insurance company, including its producers and adjusters, that issues or renews a policy of insurance in this state covering, in whole or in part, a motor vehicle may not:

(i) require that a claimant under the policy use a particular automobile body repair business or location for an estimate or a repair; or

(ii) engage in any act or practice that intimidates, coerces, or threatens a claimant or that provides an incentive or inducement for a claimant to use a particular automobile body repair business or location.

(b) An insurance company, including its producers and adjusters, that issues or renews a policy of insurance in this state covering, in whole or in part, a motor vehicle may have access to the motor vehicle for purposes of preparing a competitive estimate.

(2) (a) Except as provided in subsection (2)(b), if an insurance company has direct repair programs with automobile body repair businesses or locations, the insurance company may not limit the number of automobile body repair businesses or locations with whom it maintains direct repair programs.

(b) An insurance company may limit the number of automobile body repair businesses or locations participating in the insurance company's direct repair program to those automobile body repair businesses or locations that comply with the provisions of subsection (2)(c). An insurance company is not required to establish a direct repair program in a particular market area in which the insurance company's number of policyholders does not support establishing a direct repair program with any automobile body repair business or location.

(c) Upon request, the insurance company shall provide, without prejudice or bias, the claimant with a list that includes all automobile body repair businesses or locations that are reasonably close or convenient to the claimant and willing to provide services and that meet the insurance company's criteria regarding whether the automobile body repair business or location:

(i) possesses the equipment necessary to undertake repairs;

(ii) undertakes training of management and technical personnel with respect to repair information and the claims process;

(iii) agrees to perform quality repairs at the ~~prevailing competitive~~ market price and that meet reasonable industry repair standards;

(iv) agrees to warrant the quality of work, including refinishing, in writing to the claimant, for a period of

not less than 1 year from the date of repair;

(v) agrees to inspection of its repairs and services by the insurance company and agrees that the insurance company may terminate the direct repair program with the automobile body repair business or location if the repairs and services are below the standards of quality required by the insurance company; and

(vi) if requested, agrees to execute an agreement with the insurance company that may contain additional criteria that are not designed to unfairly limit the number of automobile body repair businesses or locations with whom the insurance company maintains direct repair programs. The additional criteria may include criteria determined to be necessary by the insurance company and designed to ensure that the automobile body repair business or location has the necessary estimating systems and programs and equipment to communicate electronically with the insurance company and that the automobile body repair business or location has taken steps to ensure the privacy of the insurance company and the claimant.

(d) If the claimant requests the list provided for in subsection (2)(c), the insurance company shall inform the claimant that the claimant may use an automobile body repair business or location at the sole discretion of the claimant.

(3) For the purposes of this section, an incentive or inducement does not include:

- (a) providing a claimant with the list provided for in subsection (2)(c); or
- (b) referring to a warranty issued by an automobile body repair business or location.

(4) The claimant may use an automobile body repair business or location at the claimant's sole discretion, and the insurance company shall pay for the reasonable and necessary cost of the automobile body repair services for covered damages, less any deductible under the terms of the policy. This section does not require an insurer to pay more for automobile body repair services than the ~~lowest prevailing~~ market price, as defined in 33-18-222.

(5) If the claimant uses an automobile body repair business or location that is not on a list provided for in subsection (2)(c), the insurance company may not be held liable for any repair work performed by the automobile body repair business or location chosen by the claimant.

(6) It is unlawful for an automobile body repair business or location to charge or agree to charge a claimant more than an uninsured customer for any automobile body repair service.

(7) An insurance company that contracts with an independent adjuster may not be held liable for the independent adjuster's failure to comply with the terms of this section.

(8) For purposes of this section:

(a) "automobile body repair business or location" does not include a business or location that exclusively provides automobile glass replacement, glass repair services, or glass products;

(b) "claimant" means the person seeking repair of a motor vehicle whether that person is the insured person or a third party making a claim against the insurer."

Section 5. Effective date. [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,
HB 0291, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2009.

President of the Senate

Signed this _____ day
of _____, 2009.

HOUSE BILL NO. 291
INTRODUCED BY J. SONJU

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